

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LUKE ANDERSON and HILLARY
ANDERSON, husband and wife,

Plaintiff(s)

Vs.

JOHN FALKENTHAL,

Defendant(s)

Case No. _____

COMPLAINT

INTRODUCTION

1. This lawsuit arises out of a motor vehicle collision that occurred at about 2:30 p.m. on June 2, 2019 at 6788 W. Husker Highway near Alda, Hall County, Nebraska. Defendant John Cleveland Falkenthal was operating his Dodge Ram pickup on a public highway directly behind the Ford Fusion owned and operated by Plaintiff, Hillary Anderson, and also occupied by Plaintiff, Luke Anderson, when Defendant Falkenthal failed to stop his vehicle and struck Plaintiff's vehicle from behind. Plaintiff, Hillary Anderson, suffered minor physical injuries in the collision, but Luke Anderson's injuries were more serious. He suffered a low back injury including central disc herniation at L4-5 which required fusion surgery and follow up care. The medical costs for Plaintiff's treatment has totaled over \$45,000.00. Luke Anderson was also deprived of income from his employment at Cherokee

Regional Medical Center of over \$40,000.00 during the period of recovery from his injury. Plaintiff, Luke Anderson, still endures pain and suffering from his injuries and has limitations on his physical activities post accident.

PARTIES

2. Plaintiffs, Hillary and Luke Anderson, were living in Cherokee, Cherokee County, Iowa at all times material hereto.

3. Defendant, John Cleveland Falkenthal, resided in Henderson, Clark County, Nevada at all times material hereto.

VENUE

4. Plaintiffs fully incorporate paragraphs 1 through 3 of this Complaint the same as if set forth in full.

5. The events that gave rise to the cause of action occurred on June 2, 2019 in or near Alda, Hall County, Nebraska.

6. Venue is proper pursuant to 28 U.S.C.A. §1331 because events and omissions giving rise to the claim occurred in the District of Nebraska.

JURISDICTION

7. Plaintiffs fully incorporate paragraph 4 through 6 of this Complaint the same as if set forth in full.

8. Personal jurisdiction over Defendant Falkenthal is proper because the events giving rise to the cause of action occurred in Hall County, Nebraska.

9. Defendant Falkenthal caused tortious injury by an act or omission in Nebraska and has and maintains relation with Nebraska sufficient to afford a basis for the exercise of personal jurisdiction consistent with the United States Constitution.

10. This court has subject matter jurisdiction of this action pursuant to 28 U.S.C.A. §1332.

11. Diversity of citizenship is present between the parties.

12. The amount in controversy is substantially in excess of seventy-five thousand dollars, exclusive of interest and costs.

13. This Court has subject matter jurisdiction over the parties.

14. This Court has personal jurisdiction over the parties.

STATEMENT OF FACTS

15. Plaintiffs fully incorporate paragraphs 1 through 14 of this Complaint the same as if set forth in full.

16. On June 2, 2019, Defendant was operating a Dodge Ram pickup truck on a Hall County road near the public shooting park.

17. At the same time, Plaintiff Hillary Anderson was operating a 2016 Ford Fusion on the road in front of the defendant.

18. At that time, the Plaintiff stopped for a stop sign when the Defendant's motor vehicle following from behind collided with Plaintiffs.

19. The collision described above caused physical damage to the Plaintiff's vehicle and injuries to both Plaintiffs.

20. Plaintiff, Hillary Anderson, was treated for soft tissue injuries but was not hospitalized.

21. Plaintiff, Luke Anderson, was injured and underwent low back surgery after the accident.

22. Plaintiff, Luke Anderson, was unable to work for a significant period of time after the accident and was therefore deprived of income over several months.

23. As a proximate result of Defendant Falkenthal's negligence, the Plaintiffs, Luke and Hillary Anderson, sustained injuries.

24. Plaintiffs, Luke and Hillary Anderson, have and will continue to experience physical pain.

25. Plaintiffs, Luke and Hillary Anderson, will continue to experience a loss of enjoyment of their lives.

CAUSE OF ACTION - NEGLIGENCE

26. Plaintiffs hereby incorporate paragraphs 1 through 25 the same as if set forth in full herein.

27. Defendant Falkenthal owed Plaintiffs, Hillary and Luke Anderson, a duty to maintain a proper look out while operating his vehicle.

28. Defendant Falkenthal owed Plaintiffs, Hillary and Luke Anderson, a duty to maintain a proper look out while operating his vehicle.

29. Defendant Falkenthal owed Plaintiffs, Hillary and Luke Anderson, a duty to operate his car within the limits of his control.

30. Defendant Falkenthal owed Plaintiffs, Hillary and Luke Anderson, a duty to use due care when driving his car.

31. Defendant Falkenthal breached his duty in the following manner:

- a. Failing to maintain a proper lookout.
- b. Failing to control his vehicle.
- c. Failing to yield the right of way to Plaintiffs.
- d. Failing to adhere to the rules of the road.
- e. Failing to act as a reasonably careful driver in the same situation would have acted.

32. As a direct and proximate result of Defendant Falkenthal's breach of his duties, Defendant Falkenthal caused Plaintiffs, Hillary and Luke Anderson to sustain serious and significant damage.

DAMAGES

33. Plaintiffs hereby incorporate paragraphs 1 through 32 the same as if set forth in full.

34. As a result of the above, Plaintiffs, Hillary and Luke Anderson, has incurred and will incur in the future:

- a. Medical expenses to treat injuries sustained in the collision.
- b. Medical mileage to seek medical treatment.
- c. Loss of income and loss of earning power.
- d. Physical pain and mental suffering.
- e. Loss of enjoyment of life.
- f. Physical disability.

35. As such, Plaintiffs, Hillary and Luke Anderson, seek to recover damages against Defendant, John Falkenthal, in an amount to be proven at trial.

36. As a result of Defendant, John Falkenthal's actions, Plaintiffs, Hillary and Luke Anderson, has incurred medical costs and will incur future medical costs. Plaintiffs, Hillary and Luke Anderson, are entitled to the reasonable value of the same.

37. As a result of Defendant, John Falkenthal's actions, Plaintiffs, Hillary and Luke Anderson, have lost past wages. Plaintiffs, Hillary and Luke Anderson, are entitled to payment of the same.

38. As a result of Defendant, John Falkenthal's actions, Plaintiffs, Hillary and Luke Anderson, have experienced past physical pain and are reasonably certain to experience future

physical pain. Plaintiff, Luke Anderson, is entitled to compensation for the value of the same.

39. As a result of Defendant, John Falkenthal's actions, Plaintiffs, Hillary and Luke Anderson, have experienced past mental suffering and are reasonably certain to experience future mental suffering. Plaintiffs, Hillary and Luke Anderson, are entitled to compensation for the value of the same.

40. As a result of Defendant, John Falkenthal's actions, Plaintiffs, Hillary and Luke Anderson, have experienced past loss of society and companionship and are reasonably certain to experience future loss of society and companionship. Plaintiffs, Hillary and Luke Anderson, are entitled to compensation for the value of the same.

JURY DEMAND

41. Plaintiffs demand a trial by jury.

42. Plaintiffs pray for general and specific damages and for other and further relief as the Court deems just and equitable.

43. Plaintiffs request a trial in Omaha, Nebraska on all issues triable.

DATED: June 1, 2023

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